IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 20TH SEPTEMBER 2007 / 29TH BHADRA 1929

WP(C).No. 28700 of 2006(N)

LAR.67/2004 of III ADDL.SUB COURT, ERNAKULAM
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PETITIONER:

SICILY THOMAS, AGED 57,
W/O.N.J.THOMAS, RESIDING AT NERIAMKOTTU HOUSE,
SOUTH CHITTOOR, KOCHI-27.

BY ADV. SRI.P.N.RAMAKRISHNAN NAIR
SRI.P.VISWANATHAN
SRI.G.JAYASANKAR
SRI.AJU MATHEW

RESPONDENTS:
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1. FRANCIS, AGED ABOUT 70,
S/O.CHEEKU, KUNNAPPILLY HOUSE,
SOUTH CHITTOOR, CHERANELLOOR VILLAGE.

2. STATE OF KERALA.

BY ADV. SRI.JOHNSON ABRAHAM
R2 BY GOVERNMENT PLEADER SRI. K.G. BHASKAR.
SRI.S.GOPINATHAN
SRI.NELSON ABRAHAM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/09/2007, ALONG WITH WPC NO. 28705 OF 2006 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT. P1	**CLAIM STATEMENT FILED BY THE PETITIONER IN LAR 75/04.**
EXT.P2	**CLAIM STATEMENTS FILED BY THE PETITIONER IN LAR 76/04.**
EXT.P3	**COPY OF THE PROOF AFFIDAVIT FILED BY THE PETITIONER IN LAR 75/04.**
EXT.P4	**COPY OF THE PROOF AFFIDAVIT FILED BY THE PETITIONER IN LAR 76/04.**
EXT.P5	**COPY OF I.A.1788/06 IN LAR 67/04.**
EXT.P6	**COPY OF I.A.769/06 IN LAR 69/04.**
EXT.P7	**COMMON ORDER DATED 23.6.06 PASSED IN LAR 67/04 AND LAR 69/04 ON THE FILE OF III ADDL. SUB COURT, ERNAKULAM.**

[True copy]

P.A. to Judge.

M.N. KRISHNAN, J.

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W.P.C. NOs. 28700 &
28705 OF 2006

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Dated this the 20th day of September, 2007.

J U D G M E N T

These writ petitions are filed against the common order passed in LAR Nos.67 and 69 of 2004 whereby the Court refused to implead the present writ petitioner in the matter. A perusal of the order would reveal that the case relates to acquisition of land having an extent of 4.30 Ares. The Land Acquisition Reference Authority found that the first claimant has proved his title only with respect to 2.23 Ares. Subsequently, the present writ petitioner moved an application before the Court contending for the position that she had title over 19 cents of property out of which she had assigned 15.920 cents and she still continues to hold right over 3.080 cents of property. It is further alleged that the said property comes within the ambit of the present two Land Acquisition References. The Court below found that there is difference in survey numbers and she is not having

any right and therefore summarily rejected the applications. At the same time the Court held that the claimant Francis had produced basic tax receipt which will show that he is paying basic tax for 4.30 Ares of property. The point to be adjudicated and found out is with respect to the disputed extent, i.e. 1.07 ares out of 4.30 Ares, who is having title to the property, whether it is covered by the document claimed by Sri. Francis or it becomes part and parcel of the property claimed by the present writ petitioner as per the sale deed No.756/77. These are all matters which can be decided by the Court only after analyzing all the materials and evidences. Just because one survey number is not seen, the Court cannot simply dismiss the impleading petition especially in the back drop that the first claimant's document also does not take in the entire extent. Therefore, the Court should have allowed the impleading petition and directed the parties to adduce evidence and decide the point of dispute in accordance with law after analyzing the evidence tendered in the matter. Therefore, I make it very clear that any

observation made by me shall not be taken as an indication of the right of any of the parties. Therefore, the orders under challenge are set aside and the Land Acquisition Court is directed to implead the present writ petitioner and permit him as well as the first claimant herein to adduce evidence and produce documents and dispose it of in accordance with law. The Court shall also bear in mind that the matter needs an expeditious disposal.

The writ petitions are disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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